IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11353 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GC HIGH SCHOOL

Versus

BHUPENDRAKUMAR I PATEL

Appearance:

1. Special Civil Application No. 11353 of 1994
MR SN SHELAT for Petitioner No. 1
MRS VASAVDATTA BHATT for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2-3
GOVERNMENT PLEADER for Respondent No. 4

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 07/10/2002

ORAL JUDGEMENT

1. The short facts of the case are that on 25-7-1994, the permission was granted by D.E.O. to advertise the post of teachers in the subject of Gujarati B.A. B.Ed. to be filled in the reserved category of scheduled castes. On 31-8-1994, the advertisement was given in Sandesh Daily newspaper for filling in the said post. Before the process further began on 23-3-1994 one application being 194/1994 came to be filed before the Gujarat Secondary Education Tribunal by respondent No.1 herein contending that he is the surplus teacher and he is required to be absorbed in the petitioner school and, therefore, the post cannot be filled up. The Tribunal on 4-8-1994 passed the order, whereby the Tribunal directed the DEO to decide the question as to whether respondent No.1 can be absorbed having regard to the qualifications of B.Sc. B.Ed. and the interim injunction granted against the school was continued. The said order dated 4-8-1994 passed by the Tribunal is the subject matter of this petition.

2. This Court on 11-10-1994, while hearing the petition, had ranted ad-interim relief in terms of para 9(b), whereby the operation and implementation of the order of the Tribunal was stayed and the notice as to interim relief was made returnable after four weeks. Thereafter on 15-11-1994, this Court had modified the interim relief subject to the condition that the petitioner shall not make any appointment pursuant to the advertisement dated 31-8-1994 or otherwise and it was further directed that the Tribunal may dispose of the application No.191/1994 as early as possible.

3. Today when the matter comes up for final hearing, the learned Counsel for the parties are not in a position to report to this Court as to whether the Tribunal has finally decided the application No.191/1994 as directed by this Court on 15-11-1994 or not.

4. Considering the facts and circumstances of the case, I am of the view that the matter was at the interim stage and this Court, while passing the order dated 11-10-1994 read with the order dated 15-11-1994 has granted interim relief and, therefore, if the matter is examined at the interim stage, it may prejudice the case of either side pending before the Tribunal and, therefore, considering the facts and circumstances of the

case, I am of the view that if the direction is given to the Tribunal to decide the application No.191/1994 within a stipulated time limit and if the interim relief which is granted by this Court is allowed to continue till then, no serious prejudice will be caused to either side, because the interim order has already operated for about eight years and if it is allowed to operate till the Tribunal takes a final decision within the stipulated time, the same would not adversely affect the interest of the parties, but it would rather be in the interest of all the parties.

5. In above view of the matter, the Gujarat Secondary Tribunal is directed to decide the application No.191/1994 within a period of three months from the date of receipt of the order of this Court, if the application No.191/1994 is up till now not decided and till the Tribunal decides the application finally, the interim order passed by this Court in this SCA shall continue. The petition is disposed of in terms of the aforesaid directions only. Rule discharged.

7-10-2002 (Jayant Patel, J.)

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